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SUBJECT: USG COMMENTS ON UNDPKO "CAPSTONE DOCTRINE"

REF: MCCURRY/ODELL E-MAILS

¶1. (U) As part of its "peace operations 2010" reforms, the UN's Department of Peacekeeping Operations (DPKO), with the help of more than 250 international experts meeting in workshops around the world, has developed a document that sets out for practitioners the guiding principles and core tasks of UN peacekeeping operations. Once finalized, this document (the "Capstone Doctrine") will be issued as a DPKO publication, and will replace the 1995 General Guidelines on United Nations Peacekeeping.

¶2. (U) Australia, Canada and Japan have all shared their views with USUN and/or the Department of State (copies of position papers/comments provided to country desks), and we understand that the five largest troop-contributing countries met this summer to seek a common position. DPKO staff working on this paper hope to present a final draft to DPKO management on October 22. USUN may give the text in paragraph 3 to DPKO and to other delegations as needed, for use in discussions, on the understanding that it be treated with discretion.

3.(U) U.S. Comments on the Draft UN Peacekeeping Capstone Doctrine:

Overview

The U.S. commends the work that has gone into this generally excellent document. This will provide an invaluable tool for peacekeepers and policy makers. It reflects the substantial growth in the size, number and mandated tasks of UN peacekeeping operations in the 21st century. Missions are now being asked to lay the groundwork for sustainable peace, rather than simply to monitor and support the early stages of a cease-fire and peace agreement.

That said, we believe the document would benefit from more precision in its definition of terms and of how it addresses the range of activities required to move from conflict to stability and even prosperity. Most notably, it blurs the Security Council's primacy in determining when peacekeeping missions are needed and what their mandates should be.

The charts and illustrative figures as we received them are confusing and not well-executed.

We would like the opportunity to review Annex 2 (list of current mandated tasks) and Annex 3 (Legal Framework for UN Peacekeeping Operations) before the document is finalized.

Introduction and Chapter 1: These segments are a useful, concise overview of the changing international environment.

Chapter The Spectrum of Peace Operations: The definitions provided here are increasingly artificial, with considerable overlap and not much added value. Although the distinction between "peacekeeping" and "peace enforcement" is sometimes used as a form of shorthand, it is not particularly useful or meaningful in the UN context, and the Security Council does not make such distinctions when establishing the mandates of peacekeeping operations. A more useful distinction that could use discussion or clarification in the text is the difference between UN political missions and peacekeeping operations. We are not clear what is meant by "positive" peace (paragraph 28). We recommend mentioning the contribution of bilateral donors and the growing body of expertise among donors, governments and beneficiary countries on peacebuilding. The document very usefully notes the increasing degree to which the various elements of peace operations overlap in practice.

Chapter 3: The Role of UN Peacekeeping Operations: This is generally clear and helpful. However, it should make clear (paragraph 36) that, while the Secretary-General recommends modifications to mandate, size and other factors 'affecting an operation, it is the Members of the Security Council that negotiate and authorize them. Further, the Security Council can and does take steps without any recommendations from the Secretary-General, and is free to reject or accept his proposals. In para 36, we note that mandate renewal discussions are another Opportunity to make modifications to mandate, personnel strength, structure or other aspects of a UN peacekeeping operation. We recommend (paragraph 38) that the report refer to the restructuring of the "security" forces, not the "armed" forces (to include such elements as the police), and that it specify "management" as well as "distribution" of natural resources. In paragraph 40, we recommend that the report include a specific reference to the particular vulnerability of women and children. It should be noted that the complicating effects of human rights abuses on efforts to achieve national reconciliation include both psychological and legal problems, as well as social disruption. Paragraph 42 should be amended to read "...better match of capabilities to mission requirements and better division of responsibilities between and coordination among7 the various actors involved in responding to post-conflict situations.

We have some concerns about how the draft document describes the core business of UN peacekeeping operations. Specifically, we do not necessarily agree that UN peacekeeping operations should remain "...until the State is able to assume full responsibility for the security of its populations." Each scenario and country situation may be different. In general UN peacekeepers should maintain a secure and stable environment while resources are mustered, plans are developed, and the groundwork is laid for the State to resume full administration of state functions, including the provision of security.

Paragraph 49 is overly broad in its characterization of the legal responsibilities of UN entities. We of course agree that UN entities (personnel, agencies, and so on) should respect and promote human rights. We are uncertain, however, of the source of the asserted "individual responsibility" of peacekeeping personnel "to protect, promote and advocate for human rights", and of the basis on which individual peacekeeping personnel (as opposed to States) are "bound" by international human rights law. We would urge that this paragraph be revised to indicate that applicable standards for peacekeepers' conduct in relation to human rights arise from UN policies rather than from specific requirements under international law. Similarly, we note that the assertion that all peacekeeping personnel "are bound by international human rights law" may be overly broad, in particular because it

fails to take account of the potential applicability of other bodies of law, including international humanitarian law, that may serve as the *lex specialis* in particular circumstances and may affect the applicability of provisions of human rights law. We expect that these issues may be addressed in greater detail in Annex 3 to the Capstone Document, addressing the legal framework for United Nations peacekeeping operations, and we would welcome the opportunity to review and comment on this Annex.

Peacekeeping is not a substitute for development assistance. We welcome the statement in paragraph 54 underlining that UN peacekeeping operations are neither mandated nor have the resources to engage in long-term peacebuilding. Similarly, the discussion in paragraphs 55 and 56 of UN peacekeeping operations serving a "catalytic" role and "laying the foundations" for subsequent peacebuilding are to the point. The U.S. also agrees, strongly, that resources should be adequate to the mandated tasks (paragraph 56); in our view, there has been an increasing tendency in recent years to add tasks for which the resources (human, technical/logistic or financial) may not be available. This point cannot be overly stressed. While the draft document is very clear about the distinction between peacekeeping and development, as it progresses there are a number of instances where that distinction becomes blurred. For

instance, it should be made clear (paragraph 58 and paragraph 59) that support by the peacekeeping operation for economic reforms or humanitarian assistance will be provided if the Security Council has mandated such support.

In a similar vein, peacekeeping resources are not to be used to provide material forms of assistance (e.g. goods, consumables, money) to the host country. We do not fully understand the scope of the "Quick Impact Projects" discussed in the box following paragraph 59 and are concerned by the suggestion that UN peacekeeping * operations may have some general authority to provide "financial support" to host country institutions funded from assessed peacekeeping contributions. We would urge that this discussion be revised to reflect the principle that funding for material assistance to host country institutions must come from traditional aid sources and not from the budgets of peacekeeping operations. Traditional aid sources must then become more flexible and rapid in responding to the myriad tasks and requirements of early stages of an operation. To that end, we continue to support the concept of the use of "Quick Impact Projects" in the earlier stages of an operation to facilitate good relations between units and the communities in which they are working, and to support overall mission objectives.

Chapter 4: Guiding Principles of UN Peacekeeping Operations: The distinction made in the proposed amplified and longer list of "guiding principles" between "credibility" and "legitimacy" is obscure and provides no added value. We recommend that the discussion of "legitimacy" be removed; if the Security Council has mandated the mission, it is by definition "legitimate." Its effectiveness and impartiality will determine its credibility. We continue to have concerns about the lack of clarity and possibility for confusion posed by the word "consent." The discussion in the Australian paper is very useful on this issue. "Consent" is a complex concept, it may be coerced under certain circumstances, and may be present at the political level but not fully present in a given situation in the field. We support the Australian recommendation that the document avoid too much specificity about who is giving consent, since any given conflict or political situation will contain variables that do not meet the model, and those variables are likely to change. It is also important to underscore that the Security Council, consistent with its authority under

Chapter VII of the UN Charter, retains the option of authorizing a UN mission even in the absence of the consent of the host country. "Restraint in the use of force" is a useful formulation, and allows for a gradation of responses in accordance with the mandate, rules of engagement, and operational realities. We welcome the statement that "the use of force always has political implications." We note that, as drafted, the discussion of use of force issues may suggest limits on the authority of peacekeepers to use force in situations of armed conflict that are not required by international humanitarian law. To the extent that it is UN policy to impose such limits on peacekeepers' actions for policy, rather than legal, reasons, we suggest that the discussion be revised to make this clear.

Chapter 5: Deciding to Deploy a UN Peacekeeping Operation: We underline (paragraph 84.) that the Security Council determines not only when and where a UN peacekeeping operation should be deployed, but also what its mandate should be. Overall, the discussion of the conditions needed for success is 'excellent.

Chapter 6: Planning a UN Peacekeeping Operation: This section quite properly focuses on the critical role played by good planning and long-term thinking about subsequent priorities during stabilization. However, trying to draw sharp distinctions between phases of an operation is perhaps less useful than speaking of priorities and how they may change as a situation becomes more stable. Focusing on priorities also allows identification of other means to achieve political or security stability, such as through a UN political mission.

Chapter 7: Directing and Supporting UN Peacekeeping Operations: We found the direct acknowledgment (paragraph 118) that levels of authority in UN peacekeeping operations are not as clear as they are in military organizations to be to the point and helpful. It should be made clear in paragraph 120, as it is later in the document, that the Special Representative of the Secretary-General has authority in country to direct the

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other UN agencies. Also useful is the discussion in section 7.2, on UN Logistics and Administrative Support, of the possible need to shift focus and resources among changing priorities as circumstances changes, and of how the budget cycle may not be able to respond rapidly to short-term needs. We welcome the particular attention called (section 7.4) to the security needs of UN international and national staff.

Chapter 8: Management and Integration of UN Peacekeeping Operations: This is an excellent exposition. The description in this section of the need to work in and across a variety of national and organizational cultures is succinct, clear and helpful, and underlines how problems in this area can undermine the success of a

mission.

Chapter 9: Maintaining the Support of the Host Population: Another practical, clear section, with useful, concrete examples. We would welcome further discussion with the Secretariat of the issues related to welfare of uniformed personnel and civilian staff raised in, paragraph 161.

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